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ABSTRACT

This paper highlights some of the similarities and differences in the labor-management experiences of Boston University (Massachusetts), Temple University (Pennsylvania), the University of Bridgeport (Connecticut), and Yeshiva University (New York) to determine which may represent failures and which do not. In comparing the Yeshiva and Boston University cases, it is argued that collective bargaining did not fail. Rather these cases point to the need for changes in the National Labor Relations Act as it applies to union organizing drives and unit determinations. It is suggested, however, that the Temple University case did represent a failure of collective bargaining when one side clearly misused the bargaining process by knowingly hurting bystanders who were not part of the negotiations in order to achieve its ends. Finally, it is argued that the University of Bridgeport case, more than any of the others, represents a tragic failure of collective bargaining by using devices to cut costs in the face of a severe financial crisis which effectively blocked members of the faculty association from providing meaningful input to help cope with the particular crisis. The paper concludes with the observation that today's labor laws discourage mature dialogue between management and labor and foster destructive adversarial relationships. (Contains 12 references.) (GLR)

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WHEN COLLECTIVE BARGAINING FAILS: THE BOSTON UNIVERSITY, TEMPLE UNIVERSITY, UNIVERSITY OF BRIDGEPORT AND YESHIVA UNIVERSITY CASES

April 13, 1992: NCSCBHEP - 20th Annual Conference

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WHEN COLLECTIVE BARGAINING FAILS: THE BOSTON UNIVERSITY, TEMPLE UNIVERSITY, UNIVERSITY OF BRIDGEPORT AND YESHIVA UNIVERSITY CASES

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The title for this session contains a questionable presumption: that collective bargaining failed at all four of the named universities. For purposes of our discussion I urge that we withhold judgment on that presumption until we have had a chance to learn as much as possible about the similarities and differences in the labor-management experiences of the institutions. As the session unfolds we should seek a common understanding that will instruct further study and perhaps guide actions which contribute in positive ways to the conduct of union-management relationships in higher education in years to come.

There are three guiding beliefs which underlie my own evaluation of the experiences encountered by the four universities under consideration. It is useful, I think, to state those beliefs as a prelude to discussing the institutions themselves.

1. The right to withhold services (or strike) is a fundamental right of employees in our country, except where the strike represents real or probable danger to the life, safety or health of others. The occurrence of a strike does not, per se, indicate a failure in collective bargaining. In fact, it often contributes value to the process.

2. The existing labor laws in the United States, most particularly the National Labor Relations Act, were not designed to effectively govern situations where distinctions between employers and employees are unclear, such as those characterizing colleges and universities where faculty members contribute significantly to the managerial decision making process on one hand and seek to exert power as members of a union on the other hand. The National Labor Relations Board and our Federal Courts have adopted a fiction about the nature of governance in higher education which has questionable relevance to reality in today's educational world.

3. I believe that joint decision making and collective bargaining can, and must, co-exist in today's society. The experiences of colleges and universities in this regard do not stand alone. In fact, there are some 20 cases from outside higher education which are now pending before the National Labor Relations Board, all raising the issue of compatibility between shared decision making and rights to be protected as employees under the National Labor Relations Act. Some of these cases will find their way to the courts, where this belief will be tested in a wide range of settings, thus paving the way, I hope, toward changing the labor laws and the ways they are interpreted.

In an attempt to set the stage for our discussions today I would like to highlight those aspects of collective bargaining in each of the four universities under consideration which I think are most relevant for our attention. In some ways the cases are related. In some important ways they differ.

Yeshiva University

Yeshiva University never had a collective bargaining relationship with their faculty members. The lack of success by Yeshiva's faculty in its efforts to establish a relationship can be attributed to the fact that the faculty failed to tell the real story.

The record presented to the U.S.Supreme Court in the 1980 Yeshiva case did not inform the court as to the reasons why Yeshiva's faculty sought to organize. Consequently a myth emerged, bearing only limited relationship to reality, and the myth led to a precedent-setting decision which remains as one of the most ill-informed in the history of labor relations in he U. S.

Here are some of the facts which were never placed on the record in the Yeshiva case:

- matters of salary,fringe benefits, leave policy, class hours and retirement were unilaterally determined by the Yeshiva administration.

- So too were decisions on the closing of a School (The Belfer Graduate School of Science) and the dismissal of tenured faculty members (for which Yeshiva was censured by the AAUP).

- During the efforts to unionize, which extended for more than seven years, faculty salaries were frozen twice by the Yeshiva administration without any consultation.

- During one of those freezes, in 1975, Sheldon Socol, the university's Vice President of Business Affairs, received a salary increase of$4,192, more than nine percent above his prior year's salary.

- The working conditions for members of Yeshiva's faculty who sought to unionize were substandard. Crowded office facilities, excessive work loads, shortages of basic office equipment and absence of secretarial or staff assistance were common. Salaries were significantly lower than those paid to professors in comparable colleges and universities. One senior faculty member stated that the low salaries caused him to turn to "Schlock" writing in order to earn enough money to live comfortably: this instead of scholarly research.

Counsel for Yeshiva University succeeded in convincing the courts that the Yeshiva University Faculty Association consisted of managerial and supervisory personnel--that they "substantially and pervasively operated the enterprise." Consequently, according to counsel, faculty members were ineligible under the National Labor Relations Act to be included as employees in a bargaining unit.

The university placed a great deal of evidence before the National Labor Relations Board regarding faculty responsibilities, and that evidence was finally cited by the Supreme Court in upholding the university's arguments. For example, the university stated, correctly, that faculty members contributed substantially to academic decisions such as those involving curriculum, calendar, admissions, graduation requirements, testing and grading. The university also presented evidence of impact by the faculty on policy decisions, such as the location of schools. In addition, the university's counsel argued that while recommendations by faculty committees to grant or confirm tenure were technically subject to administrative veto this authority was rarely exercised. These "facts," argued counsel, provided proof that faculty members were managers.

The union never countered these allegations with evidence of their own.

The Supreme Court, on a 5-4 decision, upheld the university. Writing for the majority, Mr. Justice Lewis Powell made it clear that if a <u>complete</u> factual record had been introduced, the decision <u>might</u> have been different. He wrote: "Yeshiva faculty members, on the record, in this case, were managers."

Then Powell went on to state:

> There is no record to support the conclusion that faculty are not managers; the facts may be there, but evidence presented to the court says these people are managers.[1]

The Yeshiva decision was a surprise to many observers, including high-level administrators at Yeshiva itself, one of whom said:

> Of all the universities and colleges with faculty unions about which I have had knowledge the Yeshiva faculty was by far the least managerial.

According to this same official, who still holds a high-level position at Yeshiva and with whom I visited a few weeks ago: "Nothing has changed in that regard."[2]

Boston University

In 1975 Boston University (BU) was the fourth largest private university in the United States. In 1975 a bargaining unit consisting of 860 BU faculty members was certified by the NLRB. The parties then engaged in collective bargaining and finally agreed on a first contract in 1979.

Boston University had questioned inclusion of department chairpersons in the bargaining unit during NLRB hearings, and a case was taken by the university into the Federal Court System challenging that inclusion. This case was pending on the U.S.Supreme Court's docket at the time the Yeshiva case was slated for hearing. Since Yeshiva raised a larger question of whether faculty members, in general, are entitled to protection of the NLRA, the Supreme Court postponed action on the BU case--pending the outcome of Yeshiva.

Soon after the February 1980 Yeshiva Decision the Boston University case was remanded by the Supreme Court to the Director of District 1 of the National Labor Relations Board (in Boston) for re-hearings on the entire bargaining unit "in light of Yeshiva."

Heeding the words of Mr. Justice Powell in the Yeshiva decision, the faculty union at BU (affiliated with AAUP) enlisted

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[1] NLRB v Yeshiva University, 100 S.Ct.856 (1980).

[2] The Yeshiva University Faculty Association (YUFA) which conducted the union-organizing drive, represented only 209 faculty members (out of a total of more than 1200 faculty in the entire university).

the services of one of the country's best-known and most highly admired law firms specializing in labor law matters, and the B.U. faculty union (guided by their lawyers) undertook a massive job in producing a complete record regarding functions of various faculty members in the proposed bargaining unit. Unit hearings began on January of 1981 and spanned 18 months--ending in summer 1983. During that time over 22000 pages of testimony were accumulated, plus more than 1000 pages of exhibits. There were 157 hearing days, involving slightly over 100 witnesses.

Boston University negotiated a second contract with their faculty union in 1983. It was a 3 year agreement, which included a provision (Article XXV) stating that the contract would be binding unless final determination of the Boston University case on department chairpersons invalidated decertification of the entire faculty unit.

On June 29, 1984 NLRB Administrative Law Judge George McInery delivered his opinion. McInery stated that the faculty were not members of a labor organization within the meaning of the National Labor Relations Act.

In October of 1986 the NLRB affirmed the McInery opinion, citing Yeshiva as precedent, and the BU faculty union was thereupon decertified. By 1984 the President of the United States had re-constituted the entire NLRB. None of the Board members who had upheld the efforts by Yeshiva's union in 1975 (December 5) remained.

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Considering Yeshiva and Boston University together, it is my opinion that unionization efforts at these two institutions did not represent failures of collective bargaining. Rather they pointed out the shortcomings of the National Labor Relations Act as it applies to union organizing drives and unit determinations. It also pointed out the need for changes in the Act in order to acknowledge obvious and dramatic changes in the U.S. work force. In contrast to the 1930s, during which the NLRA was passed, we are now a service-oriented economy. Workers, by and large, are more highly skilled, better educated, and far more concerned about the increased need to participate actively in significant decisions that can affect the long-range well-being of the organization for which they work. Guided by experiences in other countries and by forward-looking corporations in the U.S., we have come to realize that the concepts of collective bargaining and shared decision making are not necessarily incompatible. The National Labor Relations Act and its interpreters are out of date!

Temple University

Among the universities being considered here today Temple University differs from the other three in at least two important respects. One, the Temple Association of University Professors (TAUP) represents faculty members at a public sector university and is protected in its collective bargaining relationship with the university by the Pennsylvania State Labor Relations Law. While the Pennsylvania law is similar in most respects to the National Labor Relations Act, including the right to strike, university professors have not been successfully challenged so far on a Yeshiva Basis.[3]

The second major differences regarding the Temple case is that while there was a long strike by the faculty union which started in September 1990, the strike was eventually settled, and the parties are continuing to relate to each other within a framework which assumes continuance of a collective bargaining relationship: albeit, the relationship was severely strained by circumstances related to the strike.

Many observers believe that the Temple situation represented a failure of collective bargaining, pointing to the fact that classes were disrupted, that enrollment dropped, that students were actively involved--some in ways which led to arrests--and that major tactical errors were made by representatives of the university and faculty association alike. There is evidence that negotiating errors were instrumental in prolonging the strike, serving to poison the university's image, causing students and teachers to depart and leading to loss of clout by the president.

Some of these errors were cited by journalists Huntly Collins and Lisa Ellis, who reported on the Temple Strike in early 1991. They included the following:

- The university implemented its last contract offer and sought to continue operating by encouraging faculty members to cross picket lines to meet their classes. In a strong labor-oriented city, like Philadelphia, the administration should have anticipated that this action would increase the resolve to fight on behalf of the

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[3]/A Yeshiva challenge was raised by the University of Pittsburgh when its faculty members sought to form a union. However, the challenge was rejected in 1990 by the Pennsylvania State Labor Relations Board, and the parties were directed to engage in representation election procedures.

union. They should have anticipated that persons who would go to work would be perceived as having taken a bribe.

- The university sought to reduce costs of health insurance by asking all faculty members to make a $260 yearly contribution to their coverage, but without apparent willingness to consider that such a proposal, to be applied for each individual faculty member, did not take into account the fact that costs of coverage from one individual to another vary greatly, depending on factors such as age and size of family. Union members sought a dialogue on the subject without success.

- The faculty association erred in making the university's president, Peter Liacouras, a focus of their demands, apparently not realizing that it is not possible to bargain for a "personality transplant."[4]

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The Temple University case represents a failure of collective bargaining in pointing out that a strike, although permitted by law, sometimes harms persons and groups who are not directly involved in the negotiations far more than it harms the negotiators. When one or the other side to a dispute knowingly hurts innocent bystanders while using them as pawns in support of selfish interests, this represents an abuse of the process. Tactical errors on the part of negotiators are understandable and forgivable. However, irresponsible misuse of a process which is designed to achieve mutual understanding by parties who share common objectives--to help an institution grow and prosper--is not forgivable.

The University of Bridgeport

The University of Bridgeport is a private institution which entered a collective bargaining relationship with its faculty union in 1973 under the aegis of the National Labor Relations

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[4] See Huntly Collins and Lisa Ellis, "Can Temple be Saved?" The Philadelphia Inquirer Magazine, January 13, 1991, pages 11-26.

Act.[5] The first collective agreement became effective in 1974, and the faculty association, which is affiliated with the American Association of University Professors, has remained certified since then. Relationships through the years have not been smooth, evidenced by the occurrence of four strikes during the past 14 years, the most recent of which started on September 1, 1990 and is still, technically, active.

For more than 12 years the university, like many others in the country, has been faced by declining enrollments and rising costs, causing it to raise tuition, tighten budgets, lay off staff members and shut down programs.

In March of 1989, Bridgeport's president Janet Greenwood met with members of the university's faculty association to discuss the financial situation. The university had run a deficit for nine straight years, and Greenwood anticipated a shortfall for fiscal year 1988-89 which would exceed expectations by more than $500,000. She informed leaders of the association that members of the faculty would be asked to make financial concessions and that still more concessions would be needed to cover anticipated deficits for the following year.

Professor Alfred Gerteiny, president of the faculty association, thereupon sought opinions from the faculty association's executive committee and communicated them to Greenwood in a memo dated April 26, 1989. These included the following "tentative thoughts."

- that 50% of the anticipated deficit should be contributed by <u>all</u> university personnel, including administrators,

- that the total value of these contributions should be matched through a Board of Trustees grant,

- that there would be "significant input" from the faculty association in institutional planning and budgetary priority setting,

- that the existing collective bargaining agreement should be extended beyond its August 31, 1990 expiration, and that it should include an early retirement option along with salary increases equivalent to those in the existing contract for each of three years beyond 1990,

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[5] 1973 was the year in which the Yeshiva University Faculty Association began organizing activities.

- that no faculty reduction would take place for the next four years "unless mandated by a mutually agreed upon institutional plan or, for non-tenured faculty, by a justifiable non-reappointment recommendation through personnel procedures as prescribed in the collective bargaining agreement,"

- that base salaries should remain intact except as they are affected by prescribed increases, and that TIAA-CREF contributions should remain constant.[6]

In short, the faculty association sought meaningful participation in any decisions which would call for concessions or reductions in force among members of the faculty. The administration responded in two important ways:

1 - by suggesting that participation in decisions involving managerial responsibilities could result in a Yeshiva challenge and probable decertification of the faculty association,

2 - by declaring a financial exigency and, in early 1990, announcing plans to eliminate 50 professorships (from a bargaining unit of 153). The university received a $12.7 million loan from eight local banks, and under terms of the loan the institution would be required to operate without a deficit in the next succeeding fiscal year and thereafter. In addition, the banks required a reduction of the existing budget by $3 million, to about $46 million.

Beyond the proposed elimination of 50 faculty positions, the administration said that in upcoming salary negotiations with the faculty association they would seek to cut salaries of the faculty members who remained by 30 percent. The collective bargaining agreement, which would expire on August 31, 1990, called for average faculty salaries of $46,000.

The then-existing collective agreement, which had an effective date of September 1, 1987, made reference (in Article 10) to the AAUP 1940 Statement of Principles on Academic Freedom and Tenure--stating that no lay-off of a tenured faculty member could take place except:

A- in accordance with the 1940 AAUP Statement, or

B- as a result of a decision by the administration, based upon its fair and objective assessment of institutional

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[6] The Newsletter of the University of Bridgeport Chapter, AAUP, August 21, 1989, page 2.

needs and financial conditions, to modify or reduce or eliminate one or more of its educational units...or educational programs.[7]

In a letter dated March 13, 1990 Jordan Kurland, Associate General Secretary of the National AAUP, informed President Greenwood that if the university issued notice to faculty members that their appointments would be terminated because of financial exigency the members affected would be entitled to a full on-the-record adjudicative hearing before a faculty committee. According to Kurland such a hearing could include the following:

i- requirement that the administration prove existence and extent of the alleged financial exigency,

ii- the need for the administration to consider recommendations of a faculty body regarding validity of educational judgments for identification of faculty members for termination,

iii- authority of a faculty body to determine whether criteria were being properly applied.[8]

On Thursday, March 15 Alfred Gerteiny met with the Chairman of the university's Board of Trustees, and the Chairman gave Gerteiny reason to believe that he was receptive to commencing discussions regarding Article 10 of the Collective Agreement. According to Gerteiny, four issues were discussed with the Chairman:

1- the need for collegiality,

2- the need to find alternatives to faculty terminations,

3- the matter of notice and severance pay should terminations take place,

4- the need for a thorough study by the AAUP of the university's financial records.[9]

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[7] Collective Agreement between University of Bridgeport and University of Bridgeport Chapter, American Association of University Professors, September 1, 1987, Article 10, Section 10.1.

[8] AAUP Update, document published by the University of Bridgeport Chapter, AAUP, dated March 19, 1990, page 2.

[9] Ibid, page 1.

Leaders of the faculty association have since charged that no meaningful discussions on any of these matters took place at any time. Rather the university announced in negotiatons for a new contract that they would go ahead with their announced plans to terminate faculty members and cut salaries. As a result, faculty association members walked off their jobs on September 1, 1990. So, too, did members of two other unions representing University of Bridgeport employees. One of these unions represented clerical workers and secretaries; the other represented maintenance and food service employees.

In addition to cutbacks and salary reductions, the university negotiators said that they would seek to implement changes in contract wording which dealt with matters of academic freedom and governance. For example, they sought contract wording which would specifically reserve all rights and prerogatives held by management prior to certification of the union. Specifically, the university identified the following rights and prerogatives:

- to manage the university facilities and select and direct the work force, both professional and non-professional;
- to select and determine supervisory personnel;
- to determine the extent to which the university shall be operated, including but not limited to the selection and scheduling of courses of study, academic disciplines and departments;
- to relocate, continue or discontinue or increase or decrease any program, course of study, academic discipline, branch or department in whole or in part;
- to close down the University in whole or in part;
- to subcontract any or all of its operations;
- to determine the size and scope of departments and programs;
- to introduce new materials, procedures, methods, processes and equipment;
- to determine and assign to employees, including bargaining unit members, their implementation and use;
- to generally make and implement all decisions normally considered managerial.[10]

President Greenwood said the only alternative to the university's positions were to raise tuition by $3000 annually, for a total charge, including room and board, of $19,000. She said such an increase might be self-defeating, because it could lead to a decline in enrollment, which had already fallen from 9,100 in 1969 to less than 5000.

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[10] List of contract proposals, obtained from University of Bridgeport Chapter, AAUP, June 5, 1990.

Prior to the start of the strike the faculty offered to work under terms of the old contract for two additional years. The university rejected that offer.

Upon learning that the strike had begun, many students withheld tuition payments. All who had paid were eligible to request full refunds up until September 24. Some members of the faculty bargaining unit were reported to have advised students to withdraw from the school--to go elsewhere, stating that the likelihood of their obtaining a quality education at Bridgeport was not high.

By late November, both of the non-faculty unions which had gone on strike along with the faculty on September 1 had ended their strikes, and members had returned to work--all taking 4 percent pay cuts. Among the 153 members of the faculty bargaining unit nearly 100 were on the picket lines at the start. Of these, 32 returned to their jobs. Of the 68 who stayed out, only three were non-tenured. Fifty faculty members never went on strike. All who worked or returned to work accepted 30 percent cuts in wages and benefits, and non-union administrators took 7 percent pay cuts.

Meanwhile, the university hired 39 professors and librarians to replace some of the strikers.

Faculty Association leaders and a decreasing number of followers continued to picket and took their battles to court on behalf of the entire bargaining unit. They sought to compel the university to participate in arbitration over the issue of whether the so-called lay-offs were, in fact, dismissals. The association argued that the old contract governed the actions and sought to enforce Section 10 of that contract, most particularly the requirements that the university give one year's notice and one year's severance pay to those who were dismissed.

The faculty association also asked that liens be placed on the university's endowment and buildings. Bridgeport's endowment, which stood at $12 million in 1989 had shrunk to $9 million by November of 1990. Administrators had used some restricted endowment funds for expenses after obtaining permission from the donors.[11]

According to President Gerteiny of the faculty association, the association sought a lien in order to insure that the university had money to pay severance pay claims if ordered to do so by the court.

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[11] The Chronicle of Higher Education, November 28, 1990, page A-20.

As the Bridgeport strike continued, fiscal woes deepened. On Monday, November 11, 1991, President Greenwood resigned, following a vote by the university's trustees to reject an offer from a group financed by the Unification Church to invest $50 million in the university and enroll 1000 students a year. Three days before Greenwood's resignation, Standard and Poor's had lowered the rating on $3 million worth of bonds for the university from BB to CCC, sending the message that the university was nearly out of cash and "there was a possibility that Bridgeport University may consider closing in the near future."[12]

Early this year (1992) the university's interim president, Edwin Eigel, announced that the University of Bridgeport had decided on a plan to have all of its programs, including its law school (which was not involved in the negotiation controversy described here), taken over by Sacred Heart University in Fairfield, Connecticut.

Meanwhile the AAUP Chapter of the University of Bridgeport still exists and is carrying on battles in several arenas. In addition to court actions, the Chapter filed three Unfair Labor Practice charges. One charge alleged that the university failed to bargain in good faith in the 1990 negotiations. A second sought reinstatement of three tenured faculty members who wished to return to their jobs after having been replaced by part-timers. The third alleged that the university violated the law in its unwillingness to arbitrate regarding Section 10 requirements.

Upon receiving the three charges the National Labor Relations Board questioned the possible applicability of the "Yeshiva" precedent. If the Board were to find that Yeshiva applied, the professors from Bridgeport would be unprotected as employees and ineligible to file unfair labor practice charges under the National Labor Relations Act.

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The University of Bridgeport case, more than any of the others being considered by this body, represents a tragic failure of collective bargaining. It also provides a classic example of how one party to a collective bargaining agreement can effectively, and legally, use devices in the name of institutional survival which essentially could free it from obligations to bargain regarding pre-determined management actions. There is no requirement in law that managements seek

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[12] The New York Times, November 13, 1991, page B5.

involvement, participation or counsel from representatives of a faculty--even where faculty members share common, overriding objectives with members of the administration.

Whether intended or not, the tactical devices used by the University of Bridgeport to cut costs in the face of a severe financial crisis effectively blocked members of the faculty association from providing meaningful input in helping to cope with that crisis.

From all evidence examined by me, it is clear that if the university intended to cut back on faculty positions and to do it quickly with the lowest cost to themselves in time, money or legal risk they implemented a series of brilliant strategic moves.

1- They discussed the need for severe cuts in the context of collective bargaining for a successor contract, but, as far as I know, they made no cuts while the 1987-90 contract was still in force: thus, apparently freeing themselves from the obligation to comply with processes laid out in the contract to deal with cut backs.

2- Their proposals to make cuts in salary were unilaterally implemented <u>after</u> expiration of the contract, probably with knowledge that an unfair labor practice charge would be filed against them, but comforted by the knowledge that, at worst, the charges would be upheld, but that punitive measures for having taken the actions were unlikely.

   Although the law requires parties to bargain in good faith nothing in the law requires them to agree!

3- Changes in contract wording which, if implemented, would free management from obligations to comply with AAUP guidelines on academic freedom, tenure and financial exigency, were proposed with knowledge that they would almost certainly be rejected, thus causing some of the bargaining unit members to call for strike action--action which could have been anticipated in light of the history of the relationship.

4- The university administration sought replacement faculty members soon after learning that some bargaining unit members failed to report to work. The administration would rightly feel secure in the knowledge that these replacements could become permanent.

5- At several junctures the university made it clear that the Yeshiva case could be invoked in the event that the faculty association sought protection under the National Labor Relations Act by way of enforcement of their collective agreement or by filing unfair labor practice charges.

As a result of these tactics the university may have succeeded in destroying the AAUP bargaining unit at the University of Bridgeport. Coincidently or, perhaps, as a result of the tactics, they have also witnessed the demise of a university.

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The history of collective bargaining in the United States is peppered with cases like the Bridgeport case. In recent times we've seen instances--Hormel Corporation in Minnesota, Greyhound Corporation and Eastern Airlines provide examples--where cut backs of work forces and reductions in salary were accomplished (legally) through management tactics similar to those effected at Bridgeport.

Throughout history of the United States, collective bargaining has worked far better in times of prosperity than in times of decline. However, there have been times when intelligent, caring parties, seeking involvement in complex problems which threaten survival of an organization have been ignored or cast aside by managements. Our collective bargaining laws were designed to provide a forum for parties who share common interests to voice their opinions, to express their differences and to apply their creative energies for joint gains. The right to strike or lock out were sanctioned not with the idea of destroying an organization but rather to allow for exercise of economic power in an effort to share benefits from the relationship.

Unfortunately our present labor laws are often interpreted these days in ways that discourage mature dialogue. Too often, they are interpreted as if unions and managements are adversaries and as if disagreements must be resolved in ways that lead to victory for one and defeat for another--and, in some cases, in destruction of the institution that the process was designed to nurture.

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